NO. 91-367

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

CAROL ANKENBRANDT,
AS NEXT FRIEND AND MOTHER OF L.R. AND S.R.,
PLAINTIFF, APPELLANT, PETITIONER

VS.

JON A. RICHARDS AND DEBRA KESLER,
DEFENDANTS, APPELLEES, RESPONDENTS

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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QUESTION PRESENTED FOR REVIEW

DO THE "DOMESTIC RELATIONS EXCEPTION" TO FEDERAL COURT JURISDICTION AND THE "YOUNGER DOCTRINE" REQUIRE FEDERAL COURTS TO ABSTAIN FROM ADJUDICATING A TORT ACTION WHICH IS OTHERWISE PROPERLY BASED ON DIVERSITY JURISDICTION, AND WHICH SEEKS ONLY COMPENSATORY MONETARY DAMAGES FOR SEXUAL ABUSE, SIMPLY BECAUSE ONE DEFENDANT IS THE MINOR PLAINTIFFS' FATHER, WHEN A STATE JUVENILE COURT HAS COMPLETELY AND PERMANENTLY TERMINATED ALL PARENTAL RIGHTS AND RESPONSIBILITIES OF THE DEFENDANT FATHER, RENDERING HIM A LEGAL STRANGER TO THE MINOR PLAINTIFFS?

PARTIES TO THIS PROCEEDING

PLAINTIFFS:
Carol Ankenbrandt.
Lorelei Richards, her minor daughter.
Stephanie Richards, her minor daughter.

DEFENDANTS:
Jon A. Richards
Debra M. Kesler

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REFERENCES TO DECISIONS BELOW

TRIAL COURT:

ANKENBRANDT V. RICHARDS (No.89-4244, United States District Court, Eastern District of Louisiana, Judgment rendered on December 10, 1990). Unreported.

ON APPEAL:

ANKENBRANDT V. RICHARDS (No. 91-3037, United States Court of Appeals for the Fifth Circuit, District Court Judgment affirmed on May 31, 1991). Unreported.

GROUNDS FOR JURISDICTION

This Honorable Court has jurisdiction in this cause pursuant to 28 U.S.C.§ 1254 (1), §2101 (c). The opinion below was rendered by the Fifth Circuit Court of Appeals on May 31, 1991. No rehearing was sought.

RELEVANT STATUTE

28 U.S.C.§ 1332:
DIVERSITY OF CITIZENSHIP; AMOUNT IN CONTROVERSY; COSTS

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $50,000, exclusive of interest and costs, and is between-

(1) citizens of different states;

. . .

STATEMENT OF THE CASE

Carol Ankenbrandt, a citizen of the State of Missouri, filed this tort action on September 26, 1989, in the United States District Court for the Eastern District of Louisiana on behalf of her two daughters L.R. (born 9/18/82) and S.R. (born 12/13/84) to recover damages for their sexual abuse. The defendants are Jon Richards, Ms. Ankenbrandt's ex-husband and the father of the children, and Debra Kesler, Mr. Richards' female companion. Both defendants are citizens of Louisiana, and jurisdiction was therefore based on diversity of citizenship. On August 9, 1989, the Jefferson Parish, Louisiana, Juvenile Court had entered a judgment under Louisiana Revised Statute 13:1601-1605 permanently terminating all parental rights of Mr. Richards due to the abuse, and permanently enjoining him from any contact with the children. That decision was never appealed and is final.

On December 10, 1990, upon the motion of the defendants, the court, Judge George Arcenaux, dismissed the suit based on the "domestic relations exception" to federal court jurisdiction and the "Younger doctrine" of federal abstention. Plaintiff appealed to the Fifth Circuit Court of Appeals. On May 31, 1991, the Fifth Circuit affirmed the judgment in a per curiam opinion.

REASONS FOR ALLOWANCE OF CERTIORARI

Certiorari should be granted in this case for the following reasons:

1) This decision is in conflict with other decisions of various federal circuit courts of appeal on the same matter.

2) This decision represents an important question of federal law which has not been, but should be, decided by this Court.

DOMESTIC RELATIONS EXCEPTION

First, 28 U.S.C.§ 1332 makes no mention of a "domestic relations exception." This Court first decreed that federal jurisdiction does not extend to divorce and alimony cases in dicta in Barber v. Barber, 62 U.S. (21 How.) 582 (1859). In Simms v. Simms, 175 U.S. 162 (1899), that dicta was validated. Later, in Ohio ex rel. Popovici v. Agler, 280 U.S. 389 (1930), the exception was reiterated and justified, since those divorce issues formerly belonged to the ecclesiastical courts. Child custody matters were added to the parameters of the exception in In re Burrus, 136 U.S. 586 (1890).

The Popovici case, supra, was this Court's last pronouncement concerning this jurisdictional exception. However, confusion concerning the extent of the exception has been apparent in the circuits. As Judge Gibbons stated in his dissent in Solomon v. Solomon, 516 F.2d 1018 (3rd Cir.1975), "[T]here is no well-established domestic relations exception....Rather, there is a collection of misstatements of ancient holdings and ill-considered dicta." [at 1030]. One recent law review comment[1] observes:

> The domestic relations exception mandates that federal courts dismiss a domestic relations case, even if it satisfies all of the requirements of the diversity statute, because the court has no power to act. Although the United States Supreme Court originally articulated the domestic relations exception in dicta and no authoritative analysis of its validity exists, federal courts continue to observe a "hands-off" policy in cases requiring an inquiry into a marital or parent-child relationship. The breadth of the exception and the justifications for it remain unclear. In addition, the

[1] Comment, A Proposal for Abolishing the Domestic Relations Exception, 71 Marquette L.Rev. 141 (1987), at 142-143.

> courts' application of the exception remains unpredictable and inconsistent. Within recent years, a growing number of the federal courts have questioned the validity and the contours of the exception. Nevertheless, absent an explicit repudiation of the exception by Congress or the Supreme Court, the lower courts appear to be unwilling to abolish the exception [citations omitted].

As in the instant case, tort claims arising from the acts of family members, and as particularly concerns children, have been the source of many inconsistencies.

The tort claims aspect of the exception has never been addressed by this Court. Several law review articles have pointed out the inconsistent application of this doctrine, and have proposed various resolutions. See Rush, Domestic Relations Law: Federal Jurisdiction and State Sovereignty in Perspective, 60 Notre Dame L.Rev. 1 (1984); Baron, The Evolution of Domestic Relations Cases in Our Federal Courts, 1985 S. Ill. L.J. 353; Atwood, Domestic Relations Cases in Federal Court: Toward a Principled Exercise of Jurisdiction, 35 Hastings L.J. 571 (March, 1984); Comment, The Domestic Relations Exception to Diversity Jurisdiction, 83 Columbia L.Rev. 1824 (1983); Note, The Domestic Relations Exception to Diversity Jurisdiction: A Re-Evaluation, 24 Boston Col. L.Rev. 661 (1983). All of these commentators would support federal court jurisdiction in this case.

The decision at issue, and the line of Fifth Circuit cases supporting it, are the most extreme of any circuit's, and disregard this Court's observation in Deakins v. Monaghan, 484 U.S. 193, 98 L.Ed.2d 529, 108 S.Ct. 523 (1988):

> This Court has repeatedly stated that federal courts have a "virtually unflagging obligation" to exercise their jurisdiction except in those extraordinary circumstances "where the order to the parties to repair to the State would clearly serve

a countervailing interest." Colorado River Water Conservation District v. United States, 424 U.S. 800, 813, 817, 47 L.Ed.2d 483, 96 S.Ct. 1236 (1976), quoting County of Allegheny v. Frank Mashuda Co., 360 U.S. 185, 188-189, 3 L.Ed.2d 1163, 79 S.Ct. 1060 (1959); see also Moses H. Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1, 14-15, 74 L.Ed.2d 765, 103 S.Ct. 927 (1983). [at 484 U.S. 193, 203]

The decisions of the various circuits amply illustrate the conflict with this and other Fifth Circuit cases, including Jagiella v. Jagiella, 647 F.2d 561 (5th Cir.1981), often cited as a leading case.

DISTRICT OF COLUMBIA CIRCUIT

In Bennett v. Bennett, 682 F.2d 1039 (1982), the court denied the application of the exception in a tort claim for custody interference, but applied the exception to injunctive relief.

FOURTH CIRCUIT

The exception has been held inapplicable in tort cases stemming from custody and visitation disputes in Cole v. Cole, 633 F.2d 1083 (1980); Wasserman v. Wasserman, 671 F.2d 832, cert.den. 459 U.S. 1014 (1982); Raftery v. Scott, 756 F.2d 335 (1985).

SIXTH CIRCUIT

In Drewes v. Ilnicki, 863 F.2d 469 (1988), the court reversed a sua sponte dismissal of a father's suit against his wife for intentional infliction of emotional distress arising from her concealment of their child. In reversing the trial court's invocation of the exception, the circuit court held that the exception does not apply to suits that are actually tort claims having only domestic overtones, citing Elam v. Montgomery

County, 573 F.Supp. 797 (S.D. Ohio 1983), and Hooks v. Hooks, 771 F.2d 935 (6th Cir.1985).

SEVENTH CIRCUIT

In Lloyd v. Loeffler, 694 F.2d 489 (1982), the court held the exception inapplicable to a father's tort claim against his ex-wife and her relatives for interference with his custody of a child.

NINTH CIRCUIT

In McIntyre v. McIntyre, 771 F.2d 1316 (1985), the court reversed the dismissal of a father's tort action against former wife and her relatives for violation of his visitation rights under the exception. The court held that the doctrine was inapplicable where 1) questions of status were not involved, 2) there was no interference with pending state court domestic relations proceedings, 3) no alteration of state court judgment is involved, and 4) state court's supervision of a minor was not impinged.

ELEVENTH CIRCUIT

In Ingram v. Hayes, 866 F.2d 368 (1988), the Eleventh Circuit Court of Appeals valiantly attempted to make sense of the various circuits' positions on this exception, but still failed to adequately articulate a predictable approach. The holding, which applied the exception to a tort action for intentional infliction of emotional distress, is similar to that of the Fifth Circuit.

In another district court ruling, Acord v. Parsons, 551 F.Supp. 115 (W.D.Va.1982), where a federal court feared that its adjudication of suit for the tortious interference of a father's custody by his ex-wife, and the resulting emotional distress, would interfere with the state custody case, the court simply stayed the matter pending completion of the state case, rather than dismiss for lack of jurisdiction.

In the instant case, there is no pending state court case. The plaintiffs seek no modification of the custody or visitation decrees in federal court. They seek only damages for torts, which they would be entitled to seek from other third parties who caused these same losses. The simple potential for Jon Richards to reopen his custody case should he win in this federal case is not a legitimate basis for applying the "domestic relations exception." First, Richards' parental rights have been completely terminated by an unappealed judgment. He therefore has no standing to claim custody now, and his case would be quickly dismissed. Second, Defendant Kesler poses no such issue, as she is unrelated to the children.

The District Court makes two "key" findings which cannot reasonably form the basis of jurisdictional law:

> The Court finds that it would become overly involved in the state court's determination of both the abuse and the fitness of Richards as a parent, and therefore must employ the Domestic Relations exception. (P.2, Order and Reasons).

> The Court recognizes that tort issues generally do not fall squarely within the Domestic Relations exception [citations omitted]. However, the state's interest in this matter is apparent. The severity of the juvenile court's order removing Richards [sic] parental rights exhibits the extent of the state's concern for the welfare of these children. (P. 3, Order and Reasons).

These factors have no bearing on jurisdiction. The federal court jury would hear medical and psychological evidence of the abuse, and determine damages. The "fitness" of Richards would not be an issue, except for the obvious observation that a child molester is not a fit parent. Were this a police brutality case, and the defendant previously sentenced to ten

years for the crime in state court, the fact of the "severe" state sentence and the state's concern about police brutality could not possibly impede federal redress. It is also illogical to find that the juvenile court's termination of parental rights supports the application of the exception. In fact, since the termination judgment makes Mr. Richards a legal stranger to the children, the argument that this is not a domestic relations case becomes stronger. "I don't want to get involved" cannot thwart the Congressional grant of jurisdiction in this case.

THE YOUNGER DOCTRINE

The decision below also rests on the doctrine of Younger v. Harris, 401 U.S. 37, 91 S.Ct.746 (1971). Application of that doctrine here, where there are absolutely no pending state court proceedings, is in direct conflict with this Court's holding in New Orleans Public Service Inc. v. City Council, 109 S.Ct. 2506 (1989). It also violates the separation of powers between the federal courts and Congress, with the court creating its own jurisdictional boundaries. See Brown, When Federalism and Separation of Powers Collide-Rethinking Younger Abstention, 59 George Washington L.Rev 114 (1990); Redish, Judge-Made Abstention and the Fashionable Art of "Democracy Bashing", 40 Case Western L.Rev. 1023 (1990). For the court to simply abstain in this otherwise appropriate and ordinary diversity of citizenship tort action, simply because one defendant is related biologically to the plaintiffs, undoubtedly usurps Congressional authority over federal court jurisdiction.

As it now stands, if suit had been brought only against defendant Kesler, the court would have jurisdiction. Or if Jon Richards had been a stranger, an uncle, a schoolteacher, or a minister, the court would have jurisdiction. Is there any legal sanction for such an illogical interpretation of Congressional intent? There simply is no authority for these children to be deprived of their federal forum solely because they were mo-

lested by their father. It is urged that this writ be granted and thereafter the ruling below be reversed.

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APPENDIX

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 91-3037
Summary Calendar

CAROL ANKENBRANDT, As next friend
and mother suing for L.R. and S.R.,
Plaintiff-Appellant,

VERSUS

JON A. RICHARDS and
DEBRA KESLER,
Defendants-Appellees.

Appeal from the United States District Court For the Eastern District of Louisiana
(89 CV 4244 K)
(May 31, 1991)

Before POLITZ and DAVIS, Circuit Judges.*

PER CURIAM: [1]

The district court correctly declined to exercise jurisdiction over this case by invoking the domestic relations exception to federal jurisdiction and the general abstention doctrine of Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746 (1971). See Rogers v. Janzen, 891 F2d 95 (5th Cir. 1989). For the reasons assigned by the district court in its December 10, 1990 order and reasons, we affirm its judgment.

AFFIRMED.

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[1] Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

* This matter is being decided by a quorum. 28 U.S.C. Section 46(d).

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

L.R. AND S.R. MINORS WHO SUE THROUGH THEIR NEXT FRIEND AND MOTHER, CAROL ANKENBRANDT	CIVIL ACTION
VERSUS	NO. 89-4244
DEBRA KESLER	SECTION K

ORDER AND REASONS

Defendants, Jon A. Richards and Debra Kesler, filed a motion to dismiss plaintiffs' complaint pursuant to the Domestic Relations Exception and the Abstention Doctrine, which was set for hearing on November 28, 1990. Having reviewed the entire record, the memoranda of counsel, and the law, the Court shall abstain from exercising jurisdiction in this matter and dismiss without prejudice plaintiffs' complaint.

Carol Ankenbrandt brought this complaint on behalf of her minor children, L. R. and S.R., under the diversity jurisdiction of this Court.[1] Plaintiffs allege that the minor children have been abused by their estranged father, Jon A. Richards[2], and his female companion, Debra Kesler, both defendants herein. The plaintiffs argue that Richards, the biological father, has lost his

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[1] The plaintiffs and their mother are residents of the State of Missouri, and the defendants are both residents of the State of Louisiana. Plaintiffs have alleged that the amount in dispute exceeds "$20,000.00" and pray for damages nearing $9.8 million. The Court recognizes that it has jurisdiction over this matter pursuant to 28 U.S.C.§1332 and is a court of proper venue under 28 U.S.C.§1391.

[2] Ankenbrandt and Richards are divorced pursuant to a Louisiana state court judgment. There are allegations before the Court that Richards has been adjudged a danger to the children and has since lost his parental rights to the children.

parental rights pursuant to a state court judgement and is no more than a tortfeasor in this action. The plaintiffs also point out that the state court decree is final, as no appeal was taken and delays have run. Thus, the plaintiffs take the position that this action is one sounding only in tort, separate and distinct from any domestic dispute.

Defendants urge the Court to dismiss this action since the allegations of abuse are an integral part of the ongoing domestic jurisdiction of the state court.

DOMESTIC RELATIONS EXCEPTION

The federal courts have for a century recognized that "the whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the States and not to the laws of the United States." Ex parte Burrus, 136 U.S. 586, 594, 10 S.Ct. 850, 853 (1890). The Domestic Exception is founded on the this state interest in domestic matters, as well as to avoid the possibility of conflicting state and federal decrees in matters under the state's continuing jurisdiction and to avoid the unnecessary cluttering of federal dockets. Crouch v. Crouch, 566 F.2d 486, 487 (5th Cir. 1978). Considering these factors, the Court finds that it would become overly involved in the state court's determination of both the abuse and the fitness of Richards as a parent, and must therefore employ the Domestic Relations Exception. Goins v. Goins, 777 F.2d 1059, 1061 (5th Cir. 1985); Cf. Wright & Miller, Federal Practice and Procedure, Jurisdiction 2d § 3609 (1984).

The Court recognizes that tort issues generally do not fall squarely within the Domestic Relations Exception. e.g. Bennett v. Bennett, 682 F.2d 1039 (D.C. Cir. 1982); Lloyd v. Loeffler, 694 F.2d 489 (7th Cir. 1982). However, the state's interest in this matter is apparent. The severity of the juvenile court's order removing Richards parental rights exhibits the extent of the state's concern for the welfare of these children.

In accepting jurisdiction over this matter, this Court

would be forced to re-evaluate the same evidence heard by the state court and re-determine the issue of abuse based on the same evidence already "presented to and addressed in the state court proceedings." Short v. Short, 730 F.Supp. 1037, 1040 (D. Col. 1990). The state court heard testimony on at least three separate days prior to finding Richards unfit to be a parent.[3] The fact that Richards was a parent to the children would necessarily be placed before the fact finder in this tribunal. This Court would be forced to review the relationship between parent and child, an area within the particular jurisdiction and authority of the state court, and which has already been the subject of its scrutiny. Ex parte Burrus, 136 U.S. at 594, 10 S.Ct. at 853; see also Jagiella v. Jagiella, 647 F.2d 561, 565 (5th Cir. 1981). This Court is not willing to review this evidence when such review would carry with it the risk of infringing on the peculiar state court interest in this matter and in the welfare of the children.[4]

The ongoing jurisdiction of the state court over its judgements[5] in such matters prompts this Court to adopt the Domestic Relations exception and decline to exercise jurisdiction over the instant matter. Short, 730 F.Supp. at 1040; Brown v. Hammond, 747 F.2d 320 (5th Cir. 1984).

In addition to the Domestic Relations Exception, the defendants raise in their motion the general abstention doctrine under Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746 (1971).

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[3] This is evidenced by the sealed exhibits attached to plaintiff's opposition to the motion to dismiss.

[4] The prospects of a jury finding a different result than that found by the state court, would invite Richards to request the reconsideration of his parental status. This request, no matter the likelihood of its success, would most definitely fall to the state court. Accord Rogers v. Janzen, 891 F.2d 95, 98 (5th Cir. 1989); Rykers v. Alford, 832 F.2d 895 (5th Cir. 1987).

[5] While this appears to be true, the state court will always retain jurisdiction to enforce or alter its decrees. See Casida v. Casida, 580 F.Supp. 857, 859 (D. Col. 1984).

"Abstention, that doctrine designed to promote federal-state comity, is required when to render a decision would disrupt the establishment of a coherent state policy." Zaubi v. Hoejme, 530 F.Supp. 831, 836 (W.D. Pa. 1980) (citing Colorado River Water Conservation District v. United States, 424 U.S. 800, 96 S.Ct. 1236 (1976).

The Court has already examined the state court interest in the ongoing welfare of the minor plaintiffs. The conduct complained of herein is an integral part of the domestic matters presented to the state court, and is the impetus for the rulings of that court. The possibility of conflicting findings in this Court violates the basic principals of comity and compels this Court to apply its discretion declining the exercise of jurisdiction in the instant matter. Accordingly,

IT IS ORDERED that the Motion to Dismiss filed by defendants, Jon A. Richards and Debra Kesler, be and is hereby GRANTED;

IT IS FURTHER ORDERED that plaintiffs' complaint be and is hereby DISMISSED WITHOUT PREJUDICE.

New Orleans, Louisiana, this 10th day of December, 1990.

[S] George Arcenaux
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

L.R. AND S.R., MINORS WHO SUE THROUGH THEIR NEXT FRIEND AND MOTHER, CAROL ANKENBRANCT,	CIVIL ACTION NO. 89-4244
Plaintiffs,	SEC. _____
vs.	MAG. SECT. K MAG.1
JON A. RICHARDS AND DEBRA KESLER,	JURY TRIAL
Defendants.	

****

COMPLAINT FOR DAMAGES

COME NOW the Plaintiffs, L.R. and S.R., minors who sue through their next friend and mother, Carol Ankenbranct, and for their complaint against Defendants, Jon A. Richards and Debra Kesler, allege and state as follows:

JURISDICTION

1) This action is a tort claim for damages exceeding $20,000.00 exclusive of interest and costs. Jurisdiction is based on diversity of citizenship, 28 U.S.C. §1332 and 1391(a).

COMMON ALLEGATIONS

2) Carol Ankenbranct and Jon A. Richards were

married and are the parents of L.R., a female child born on September 18, 1982, and S.R., a female child born on December 13, 1984. Carol Ankenbranct and John A. Richards are now divorced. Carol Ankenbranct has been awarded full custody of both children. Defendant Richard's parental rights have been terminated by the Jefferson Parish Juvenile Court, pursuant to LSA-R.S. 13:1601-1605.

3) Defendant Jon A. Richards is a citizen of the State of Louisiana and is domiciled in Orleans Parish within this district. Defendant Debra Kesler is also a citizen of the State of Louisiana, domiciled in Jefferson Parish within this district.

4) Carol Ankenbranct and the Plaintiff minor children are citizens of the State of Missouri, domiciled therein.

DEFENDANTS RICHARDS AND KESLER

5) The children L.R. and S.R. have been repeatedly sexually abused and battered by Defendants Richards and Kesler, acting in concert, commencing on or about October of 1988 until on or about January, 1989. The sexual abuse has consisted of repeated acts of sexual fondling of the children's genitals, sexual penetration by some unknown object, including repeated acts of vaginal, oral, and anal intercourse. Further, the Defendants repeatedly chained the children Plaintiffs to boards and forced them to pose for pornographic pictures.

6) As a result of the sexual abuse, the children have experienced severe and permanent physical, psychological, emotional and sexual damage for which they are entitled to compensatory relief.

7) Further, in an effort to coerce all the Plaintiff children into remaining silent about the abuse, Defendants Richards and Kesler threatened the children with acts of bodily harm to maintain their silence.

8) Further, on December 23, 1988, Defendant Kesler, in her capacity as a licensed attorney, attempted to persuade Judge Robin Giarrusso, of the Civil District Court for Orleans Parish, to grant Defendant Richards additional visitation with the children in order to commit further abuse, misrepresenting her interest to the court as a "neutral friend".

DAMAGES

9) Said Plaintiff minor children are entitled to full compensatory damages from both Defendants, jointly and in solido, for their past, present and future treatment which will be required as a result of the abuse they have suffered, and for their physical, psychological, emotional, mental and sexual damage. As the proximate and direct result of the Defendants' tortious conduct, set forth herein, each Plaintiff has suffered the following damages:

A)	Physical, emotional, and psychological pain and suffering, past and future	$ 6,000,000.00
B)	Humiliation and embarrassment	$ 1,000,000.00
C)	Past and future psychological care	$ 800,000.00
D)	Damage to sexuality	$ 2,000,000.00
	TOTAL	$ 9,800,000.00

JURY TRIAL

10) Plaintiffs demand a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against the Defendants as set forth above, plus interest, costs and attorneys fees, and all other equitable relief as is deemed reasonable and just.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

L.R. and S.R., MINORS WHO SUE THROUGH THEIR NEXT FRIEND AND MOTHER CAROL ANKENBRANDT, PLAINTIFFS	CIVIL ACTION NO. 89-4244 SEC. K MAG. 1
VS.	
JON A. RICHARDS AND DEBRA KESLER,. DEFENDANTS	JURY TRIAL

****

MOTION TO AMEND COMPLAINT FOR DAMAGES

Plaintiffs L.R. and S.R., through the undersigned counsel, move to amend their Complaint for Damages as follows:

I.

The name "Carol Ankenbranct" is amended to real "Carol Ankenbrandt" in all places in the Complaint, including the caption.

II.

In Paragraph 2, the name "John A. Richards" is amended to read "Jon A. Richards."

III.

In Paragraph 5, the first sentence is amended to read "The children L.R. and S.R. have been repeatedly sexually abused and battered by Defendants Richards and Kesler, acting in concert, commencing on or about January, 1988, and continuing until on or about January, 1989, on such dates that Jon A. Richards had the children in his care for visitation, although Carol Ankenbrandt

did not learn of said abuse until October, 1988." The remainder of Paragraph 5 remains unchanged.

IV.

All other allegations contained in the Complaint for Damages are reurged herein in extenso.

WHEREFORE, IT IS MOVED that this motion be granted and the Complaint for Damages be amended as set forth above.

[S]_____
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ORDER

IT IS HEREBY ORDERED that the motion be granted and the Complaint for Damages be amended as moved.

New Orleans, Louisiana, this 29th day of May, 1990.

[S]_____
DISTRICT COURT JUDGE

STATE OF LOUISIANA
IN THE INTEREST OF
LOVELIE RICHARDS
W/F DOB 09/18/82
STEPHANIE RICHARDS
W/F DOB 12/13/84

FILED FEB. 27, 1989

JUVENILE COURT
PARISH OF JEFFERSON

STATE OF LOUISIANA

SECTION _____

_____
Deputy Clerk

PETITION

CHILD(REN) IN NEED OF CARE

To the Honorable, the Juvenile Court for the Parish of Jefferson, State of Louisiana:

The petition of JOHN M. MAMOULIDES, DISTRICT ATTORNEY who, upon information and belief, with respect represents that:

LOVELIE & STEPHANIE RICHARDS

whose parents are Jon Anthony Richards, whose residence is 710 Burdette, Apt. D., New Orleans, La., and Carol Richards, whose residence is 2508 Elizabeth, Metairie, La., but who are in the custody or care of their mother, and are within the jurisdiction of the Juvenile Court for the Parish of Jefferson, State of Louisiana, in that:

LOVELIE & STEPHANIE RICHARDS

are CHILDREN IN NEED OF CARE as to Jon Anthony Richards, for the following reason, to-wit:

I.

Lovelie and Stephanie Richards have been physically abused and sexually fondled by their father on many occasions particularly in October, November and December, 1988 as well as in January, 1989, all as found in violation of CJP Art. 13:14(A).

Jon Anthony Richards has neglected proper supervision of these children allowing them to see sexual acts between him and his girlfriend, affecting the children emotionally, all as found in violation of CJP Art. 13:14 (B).

II.

Jurisdiction of this Honorable Court arises under Code of Juvenile Procedure Articles 13:14 (A) (B) (C) and 15(C).

Petitioner shows that a preliminary inquiry has been made by an officer of this Court and it now appears that the interest of the public and child(ren) require that further action be taken.

WHEREFORE, the premises considered, petitioner prays that formal jurisdiction be taken by this Honorable Court and that this matter be adjudicated and that the Court render such judgments and orders as the Court may deem just, proper and necessary for the safety and protection of the public and for the welfare of the said children, and find that Lovelie & Stephanie Richards are children in need of care.

JOHN M. MAMOULIDES
BY: [S] _____
Assistant District Attorney

STATE OF LOUISIANA
PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, personally came and appeared: _____, who, being first duly sworn, did depose and say:

That he is the petitioner in the above and foregoing petition, that he has read and signed said petition; and that all of the contents thereof are true and correct to the best of his information, knowledge and belief.

[S] _____
Assistant District Attorney

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 24TH DAY
OF FEBRUARY, 1989

THIS MATTER IS SET FOR
THE 13TH DAY OF MARCH,
1989, AT 9:00 O'CLOCK A.M.

[S] _____
Notary Public

ITEM NO. OCS LETTER

DPR

DOCKET NO. 89-CC-29

JUVENILE COURT FOR THE PARISH OF JEFFERSON
STATE OF LOUISIANA
SECTION "B"

NO. 1989 CC 00029

IN THE INTEREST OF LORELEI RICHARDS AND
STEPHANIE RICHARDS

FILED: AUG. 9, 1989 [S] _____
DEPUTY CLERK

JUDGMENT ADJUDICATING CHILD IN NEED OF CARE

This case was tried on May 12, 1989, May 19, 1989, and May 26, 1989.

PRESENT: ADA J. VERERICA, Assistant District Attorney, Co-counsel for Lorelei and Stephanie Richards

RICHARD DUCOTE,
Attorney for Lorelei Richards and
Stephanie Richards

JON ANTHONY RICHARDS

CAROL ANN ANKENBRANDT RICHARDS

ELLEN WIDEN KESSLER,
Attorney for Carol Ann Ankenbrandt Richards

BERNARD M. PLAIA, JR., Attorney for
Jon A. Richards

Based upon the testimony of the witnesses, the exhibits and the evidence, the law, and the facts,

IT IS ORDERED, ADJUDGED AND DECREED that Lorelei Richards and Stephanie Richards are hereby adjudicated to be in need of care as to Jon A. Richards, the biological father.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that absolute and full legal custody of the said minor children is awarded to Carol Ann Ankenbrandt Richards, the mother of Lorelei Richards and Stephanie Richards.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Jon A. Richards shall have no visitation of any kind with such children and shall have no contact whatsoever or of any kind with such minor children and/or with Carol Ann Ankenbrandt Richards, whether directly or indirectly, through any person or agent of Jon A. Richards, including any member of his family.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Jon A. Richards shall not harass or interfere with, directly or indirectly, the custody or control of the said minor children and shall not allow, sponsor, or countenance any contact, whether directly or indirectly, with the children, their mother, their schools, or in any other manner.

JUDGMENT READ AND RENDERED on May 26, 1989.

JUDGMENT SIGNED, in Gretna, Louisiana, this 9th day of August, 1989.

[S] _____
THOMAS P. MCGEE
JUDGE

JUVENILE COURT FOR THE PARISH OF JEFFERSON
STATE OF LOUISIANA
SECTION "B"

NO. 1989 TP 00003

IN THE INTEREST OF LORELEI RICHARDS AND
STEPHANIE RICHARDS

FILED: AUG. 9, 1989 [S] _____
DEPUTY CLERK

JUDGMENT OF TERMINATION OF PARENTAL RIGHTS

This case came for hearing on August 9, 1989.

PRESENT: ADA J. VERERICA, Assistant District Attorney for the Parish of Jefferson

BERNARD M. PLAIA, JR., Attorney for/and Jon A. Richards

CAROL ANN ANKENBRANDT RICHARDS

RICHARD DUCOTE, Attorney for Lorelei and Stephanie Richards

Upon consideration of the facts of the case, the law, and the evidence,

IT IS ORDERED, ADJUDGED AND DECREED that all parental rights and privileges of Jon A. Richards as to Lorelei Richards and Stephanie Richards, be and hereby are terminated finally and unalterably on the grounds that the said children have been abused by Jon A. Richards' grossly negligent behavior, consisting of persistent cruel and inhuman treatment which is below any reasonable standard of human decency, and that Jon

A. Richards is unfit to retain parental control and there is no reasonable expectation of his reformation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Jon A. Richards shall not in the future contact, either directly or indirectly through any other person, the said Lorelei Richards and Stephanie Richards, and shall not communicate or cause any communications with them, either directly or indirectly.

JUDGMENT READ, RENDERED AND SIGNED, in Gretna, Louisiana, this 9th day of August, 1989.

[S] _____
THOMAS P. MCGEE
JUDGE